

An unofficial public meeting was held March 9, 2006 at 7:30 p.m. at the Marilla Community Center, 1810 Two Rod Road, Marilla, New York. The purpose of the meeting was to get public opinion on changing the zoning of property located on the south west corner of Clinton Street and Two Rod Road owned by Majorie Rohl from a B (business) to a B-1 (restricted business). Currently within that parcel a 500 x 500 area is already zoned business, the Rohl family approached the Town Board requesting to increase the business area size to approximately 35 acres and allow the Town to rezone it as a B-1 (restricted business). Currently on the 5 acre piece zoned business the Town has no control and any type of business can develop there. The Town Board will have to decide what is in the best interest of the Town, either way the property is going to be sold and developed. The Town Clerk published the notice of the public hearing in the Alden Advertiser, the Elma Review and East Aurora Advertiser as well as posting it on the Official Bulletin Board pursuant to the provisions of the Town Law. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Approximately (150) persons were in attendance. Supervisor Foss asked if there was any interested person who desired to be heard.

Residents with questions :

Shirley Hrycko – questioned property line?

Jane McJury – questioned the environmental impact.

Norine Link - asked what affect this would have on the Agricultural status of Marilla and would like to see senior housing instead of businesses?

Dan McJury – asked if the Town would develop the criteria for the new B-1 zoning?

Madiline Gabalski – questioned the type of business and the impact of increased traffic?

Jim Darner – asked if housing were to go in approximately how many houses?

Doug Dobe – asked what size are building lots in the Town?

Helen Bourgeois – questioned if any grants for senior or low income housing are available? She also felt if other businesses start to come in our already existing businesses will get hurt.

Katherine Bauers Toy – asked because the Planning Board recommended this to the Town Board would this set a precedence?

Emily Porter – asked what is the criteria for B-1?

Mary Earsing – asked if this would set a precedent for other areas zoned B to ask to enlarge their area?

Elaine Argauer – asked if there isn't a difference between a strip mall and individual businesses?

Don Darrow – asked why they don't leave the property alone and let the people apply for variances if they need to?

Jerry Owczarczak – asked if it would need to be rezoned if Senior housing were going in?

Roy Zgoda – asked for clarification from the Town Board if they are allowing individual businesses or a strip mall?

John Schaffer – asked if this had to be voted on by the residents?

Mary Earsing- asked why Mr. Berner had to come to the town with plans and Mr. Rohl does not?

Carol Leonard – asked if they could hear the regulations for the B-1 district?

Eugene Limpinsel – he questioned what businessmen would be willing to invest money into this rural area other than maybe a mall?

Ben Lewandowski – questioned if residents want to leave it the way it is why don't they buy it?

Diane Gorzynski – asked why the Rohl's don't just sell the property and not come to the Town to seek out buyers?

Jeff Piscitelli – asked if the Town Board feels this would set a precedent?

Leonard Janiga – asked how many parcels are zoned business and are not being developed?

Tom Felong – asked if Mrs. Rohl would be better off not selling her property since she is already in the nursing home?

Don Hirtzel – stated he had not seen those areas trying to be sold in the past year and felt it would bring more traffic.

Aaron Winde – doesn't have a problem with the plan, he purchased the Rohl house, this new boundary encapsulates his property with business.

Ron Eiseman – is a relative of the Rohl's and his mother lives next door, his mother is going to be going into assisted living and they will be selling her home, he is worried what this will do to his property value.

Helen Bourgeois – asked who sent the flyer and how residents can tell what is truthful or not?

Norine Link – asked where is the proposed 60 house subdivision listed in the flyer?

Resident - on Parker Road suggested using the lighted sign for special meeting schedules.

Resident – asked if it were changed to B-1 could they still build houses?

Mike Buehlman – asked why are they coming to the Town Board first?

Leonard Janiga – asked if this included all of the Rohl property?

Diane Gorzynski – asked if this property is rezoned prior to selling wouldn't this open it up to developers like Benderson or Ciminelli?

Debbie Specht Gardon – asked if we don't rezone what type of business could go in there with its current zoning?

Ron Eiseman – asked if the size could be scaled back?

Dan Handy – the Planning Board liked the larger area for business to have a 200 ft setback and to have more control over what business would go in there.

Resident – asked if any business would be getting a tax break?

Jane McJury – asked for the Town Board and Planning Board to look this over carefully?

Edward Riedel – asked what would be the disadvantages of doing this?

Resident – feels more comfortable with the Rohl's selling it as is.

Resident – feels that the Board already has their minds made up.

Norine Link – asked what Leon Berner's property is zoned as?

Residents against:

John Schaffer - would rather see homes than business.

Marcia Canetti – feels this only benefits a few and wants to keep it country and not turn into a Lancaster.

Marybeth Mann – feels this area cannot sustain anymore small businesses.

Pam Bauer – is against anything but residential.

Ron Karny – we already have business that we need.

Jean Holmes – against the traffic and trucks, her property is next to Mrs. Rohl's.

Residents in favor:

Dick Schultz – felt that land is scrub land and is very much in favor of businesses coming in.

Bob Jagord – felt this would be good for the Town's equalization rate and assessment and also convenient for residents, but we would need a traffic light.

Steve Tait – in favor of the rezone, feels this is the perfect area for business.

Gloria Specht – felt it would be nice to have a doctors office, dentist office or an insurance office in town.

Leona O'Brien – stated she has lived here for 83 years and this town was full of businesses; ice cream parlor, insurance, hardware store, dairy, barber, meat market, grain mill, cheese factory, funeral parlor. She would like to see it go back to that and keep our young people here. This is a good thing.

Warren Cullen – feels this is a nice traffic area for business in town and is in favor of it.

Ray Miller – Business is something we need or taxes will be going up.

Richard Bender – in favor of business going in on that corner, residents are going to want their children to be able to build in our town.

Supervisor Foss responded to all of the above questions.

Hearing no further comment the hearing was closed at 9:12 p.m.

A Regular Meeting of the Marilla Town Board was held March 9, 2006 at 9:15 p.m. at the Marilla Community Center, 1810 Two Rod Road, Marilla, New York. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Supervisor Foss called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

- a. Tri-town United Soccer Club requested use of the Town's Soccer Fields beginning May 1st.
- b. Iroquois Intermediate School requested a \$500 donation for a new drug awareness program for 5th graders.

Committee Reports

Councilman Spanitz reported that the Marilla Library will be having a book signing by local author Linda Patterson on April 4th at 6:30 p.m.

Councilman Gertz reported that the department of environment and conservation is sponsoring a latex project recycling on Saturday, May 6th from 8 a.m. to 4 p.m. at the GM Power Train Plant in Tonawanda. You can bring as many latex paint cans that you have, they will take them to recycle and distribute them to non-profit organizations, no oil base or enamel paint will be accepted. He stated that the codebook revisions are complete, he thanked Councilman Handley, Town Attorney Nathan Neill, and Bob Miller from Nussbaumer and Clarke for all their help. The Town will be required to hold a public hearing before approving the changes, he feels it will be more user friendly. He reminded everyone that the codebook can be found on the Town's website at www.erie.gov/marilla under the building inspectors heading.

Councilman Handley reported that the 2000 PACE Grant is waiting to close on the Wigler and the Janiga parcels, the landowners are frustrated and wonder what is holding them up. He reported that the grant originally stated that the approximate attorney hours would be 70 hours at a cost of \$7,700, as of December 2005 there are approximately 123 ½ hours at a cost of \$15,251, this is over budget by \$7551. He felt that the attorney fees keep on rising and we can only hope that we are near the end. The next Pavilion Committee meeting will be held on March 15th at 7 p.m. at the Marilla Town Hall, they will be tying up loose ends for the 2006 concert series.

Councilman Specht reported that he attended the Car Show Meeting on Wednesday, it will be held on July 30th and they are working on the details.

Supervisor Foss reported that the traffic and safety committee for the Car Show met and he believes they are progressing very well in the traffic and safety plans for the car show. The show will be held on July 30th and will involve most of the day but he wasn't sure of the hours. He has already contacted the Baptist Church and they have no objection to the plan as long as they can conduct their normal service. Councilman Specht is working with his church, the Marilla Methodist Church to make sure we don't interfere with their service. We are looking to eliminate parking along the street of the main parts of Town so we can keep other traffic flowing and open access for emergency service if it is needed. He has met with the Firemen and explained what is planned and to date have not received any negative comments. If there are some problems that they have not addressed the Committee will certainly make whatever corrections they consider necessary. He then went over to the map on the wall and discussed what is proposed.

He reported that the Town will be bidding out its annual bond issue and the bids are due March 29th and will be opened at 11 a.m. The total amount of the bond is

\$1,700,000 most of which \$1,535,000 belongs to Water District 3. Last years rate was 2.84% and we are expecting this years rate to be between 3.5% and 4%.

Open Board Presentations From the Public

Resident and Planning Board Member Dan Handy asked Councilman Handley if the attorney fees were paid for out of Town funds.

Councilman Handley responded that would be paid by Federal and State funds.

Old Business

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the minutes from the Regular Board Meeting held on 2/9/06 Motion Carried.

New Business

Motion Councilman Handley moved, seconded by Councilman Spanitz to authorize the Supervisor to sign a contract with Good Riddance, located at 2663 Seneca Street, West Seneca to spray the Town Park, the Memorial Pavilion and the Town Hall 3 times for the 2006 season for protection against wasps, hornets and spiders at a cost of \$1,200. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to approve the Town's Investment Policy. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Gertz to approve the \$500 donation to Iroquois Intermediate School for the 5th Grade drug awareness program. Motion Carried.

The 5-K run/walk will be held on a Saturday March 25 to raise money for a new playground at the Marilla Primary. We will have flyers available at the Town Hall.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to approve Tri –Town United Soccer to use the Town of Marilla Soccer fields for their 2006 season. Motion Carried.

Supervisor Foss explained that the Marilla Town Board had negotiated a price for the Kolbe Property located on Two Rod Road, south of the Fire Grounds and currently owned by Leonard Janiga and Earl Gingerich Jr. After being approached by residents he decided to walk the property and realized it doesn't meet the criteria for the PACE Grant. He has withdrawn his support for this parcel. He doesn't believe we can take this to Ag & Markets as a viable piece of agricultural land at this time. If it can be brought up to a viable agricultural parcel then he would be willing to write a grant for it.

Motion: Councilman Specht moved, seconded by Supervisor Foss to include the Kolbe Parcel into the PACE Program,. This is now open for discussion:

Councilman Handley questioned the soil types of this parcel?

Earl Gingerich Jr. responded that Erie County Soil and Water stated that out of the 18.3 acres , 16.8 is considered prime farmland and 1.5 is a group soil type 8, the remaining is roughly 18 acres of wetlands and woodlands.

Councilman Handley stated that this parcel is zoned RR which means it is under developmental pressure. The acreage does have minimal road frontage which would be a negative, although it does have water lines present and the landowners are willing to enroll in the PACE Program. This means out of the 6 requirements for the PACE criteria all but 1 is what they qualify for. He feels this would nominate the property to be put into the PACE Program. We approached them, they didn't approach us, and he doesn't feel this is fair to these landowners.

Councilman Specht stated that the letter dated 1/24/06 was from the Landowners.

Councilman Handley stated they were asked by the Town Board to submit that letter.

Councilman Specht then stated that the wetlands disturbs him, the Town would be investing in more then 50% of the 39 acres is wetlands and he is not in favor of that.

Councilman Spanitz stated that she was never in favor of this property being included in the PACE Program being that it is in the center of the hamlet.

Councilman Gertz stated he is neither for or against putting it in the PACE Program. His concern is what are they going to do with this land. They approached us last year about making it into a Town Park and now they want it in the PACE Program. He feels if they develop the land into prime farmland like they claim it is, we can probably get them more money for it in the future.

Supervisor Foss stated that he took the time today to walk the property and he has been on farms all of his life and when you look at the properties that have been included in the PACE Program so far, this parcel is not the same thing. This parcel has currently not been plowed a minimum of 20 years and we shouldn't put the Town's money in something that may happen down the road.

Councilman Handley stated he feels this should have been done prior to approaching them about this land. He thinks this is embarrassing for the Town Board to all of a sudden renege on something that has already been presented to Ag & Markets.

Roll Call Vote:

Councilman Specht – Nay
Councilman Gertz – Nay
Supervisor Foss – Nay
Motion defeated.

Councilman Spanitz – Nay
Councilman Handley – Aye

Motion: Councilman Gertz moved, seconded by Councilman Specht to set the date for the Public Hearing on Local Law No. 1 for year 2006 for April 13th at 7:30 p.m. at the Marilla Town Hall, the law is entitled "Creation of a B-1 Restricted Business District" the purpose of the law is to allow for additional businesses to locate within the Town of Marilla but provide some limitations and safeguards as to the size and types of businesses permitted.

Roll Call Vote:

Councilman Specht – Aye
Councilman Gertz – Aye
Supervisor Foss – Aye
Motion Carried.

Councilman Spanitz – Aye
Councilman Handley – Nay

Motion: Councilman Spanitz moved, seconded by Councilman Handley to appoint Kim Parker as the CAB Clerk and pay according to the adopted pay scale.
Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak stated that she had met with ECWA and the Town of Bennington and we worked out most of the concerns that Bennington had. We have received their report back and she just has to go through it and finalize the design as it impacts the Town of Marilla Water District.

Building Inspector John Fronczek submitted a written report with 2 building application received with fees totaling \$228, 2 building permit issued with a total value of \$20,000, 15 inspections were made and no complaints were received for the month of February 2006. A total of 110 official code enforcement activities were performed in the month of February.

Supervisor Foss stated that all exemptions must be in by May 1st.

Exemptions are due by May 1st to the Assessors Office.

The Planning Board's next meeting will be March 16th at 7:00 p.m. and minutes have been received and posted.

The Conservation Advisory minutes have been received and posted.

Volunteer Fireman John Hess reminded residents to keep the hydrants clear of snow. The Marilla Fire Company will be having a chicken barbeque on April 2nd at 12 noon.

Town Historian Hubert Kutter is doing much better and we all wish him our best.

Open Board Presentations

Earl Gingerich Jr. stated that he was perplexed by the Town's decision not to put his and Mr. Janiga's parcel into the PACE Program. He feels they are trying to be good neighbors and not develop this land. He stated that the land is being farmed, a certain area has been used by the Fire Company and the Town for different events (parking, fireworks). Leonard Janiga has committed to putting soybeans in this year. He feels the money is available from the State now and if the Town tries to apply later they may not get it. He explained that they are planning on starting to clear the land and get it in a workable condition. The land classifications qualify and the property is already receiving Ag exemptions. He then went over the chain of events from January until this evening. The Town expressed an interest in January, we were asked to put in a written request, and then the Town made an offer at the end of January. We excepted the Town's terms and were told the process would be started. He was told Ag & Markets had to be contacted and they would have to okay it, they did okay it, which he confirmed. He was contacted by the Town to come in and sign some papers on March 1st, he came in and signed them on March 2nd and Leonard signed them on March 6th. He was then contacted by the Town Supervisor on March 7th telling him he no longer had enough votes to put the parcel in the PACE Program. He asked the Town Supervisor to put it on the agenda at the next Board Meeting anyway. He went on to discuss how perplexed Ag & Markets was about the above events and read the agreement letter from the Town.

Supervisor Foss responded that the bottom line is he walked the property and the Town has to act responsibly. There is a possibility that maybe down the road it could be developed into a reasonable valuable piece of property for agriculture, but it is not today.

Leonard Janiga stated that the Town would be getting a bargain at \$1500 an acre. He felt that the Town approached them to put the land into the PACE Program. He stated other farmers had backed out because they thought their land was worth so much more. The Town is going to send all that unused money, however much is left back to Albany. The Town could keep that \$45,000 from the State and put in the Town's share of 25% which is about \$15,000, this money would go to local businesses to maybe put up a barn. He stated that his land on Jamison Road has been dragging on for 4 ½ years for the PACE Program. He stated every month he gets another copy of the survey and the Town Attorney's meter just keeps running.

Supervisor Foss responded that Earl Gingerich Jr. was in charge of the PACE Program in 2001 when Leonard Janiga signed the contract, in the three years he was in charge of the program only one property closed. He stated for 2 years Leonard wouldn't do anything because of his property on Townline Road. The same delays are happening all over the State, not just in Marilla.

Leonard Janiga stated that the Conservation Advisory Board had appointed Roger Gustavel as the Clerk for the Board at their last meeting. He stated that in the codebook they are permitted to appoint their own clerk. He also stated they would like to purchase a recorder for the clerk so he can tape the meeting and still participate in the meeting as a member.

Supervisor Foss stated that would be fine if that's what they prefer.

Councilman Specht stated that he is disappointed that the Town is not getting the Golf Course. There were a good share of people against it that live in that area. There were plans for 68 homes scattered throughout the golf course, now there will be more houses over the years. Anyone that was against it didn't understand the facts.

Councilman Handley stated that we heard some good points tonight about the Rohl property. He wondered why we are going through such trouble for one resident to sell their property when we've never even met him. He feels we should not create a new B-1 district, in the existing code he can make two splits every five years. He doesn't feel we

should go the extra mile for the Rohl Family to profit. The Town already has 13 parcels zoned business and some of them are not even developed. The Town has quite a few businesses already for the approximate 5800 residents. He then listed the Building Inspectors graph of new homes built for the last 10 years.

Supervisor Foss responded that the reason we are looking at this now is that something can either be done or not done. He then commented that he had attended a service at the First Baptist Church on Bullis Road in their new addition, it was beautifully decorated in a colonial décor which fits Marilla perfectly.

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the claims as follows:

General Fund Claims, Vouchers 66-107	\$ 25,516.65
Highway Fund Claims, Vouchers 34-53	\$ 22,220.83
Special Districts	
Sanitation (SR), Vouchers 24-31	\$ 10,534.69
Special Fire Voucher	\$.00
Water District #2, Vouchers 4-6	\$ 609.98
Water District #3 Voucher	\$.00
Water District #4 Voucher	\$.00
Community Develop. PACE 1-2	\$ 1,358.75
Community Develop. HUD	\$.00

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to adjourn the meeting at 10:15 p.m. Motion Carried.

Respectfully submitted,

_____Town Clerk	_____Supervisor
_____Councilman	_____Councilman
_____Councilman	_____Councilman